

STATE AUDITOR'S OFFICE

LEAVE INTERPRETATION 00-01¹

TO: Human Resources Directors

DATE: September 9, 1999

SUBJECT: Whether an employee who has a child and requests to take the employee's full 12 weeks of family and medical leave can take 12 weeks of sick leave when a physician certified only 6 weeks for the delivery and recovery period.

Question:

If an employee has a child and requests to take the employee's full 12 weeks of family and medical leave, can the employee take 12 weeks of sick leave when a physician certified only 6 weeks for the delivery and recovery period?

Answer:

An employee is allowed to use sick leave for only the period that is certified by the physician.

After the birth of a child, a physician usually certifies a certain amount of time for childbirth recovery. An employee is allowed to use sick leave for the period that is certified by the physician. While an employee may take additional time off under the Family and Medical Leave Act (including annual leave or leave without pay), the employee may not use sick leave for this additional time unless the employee or the child is actually sick [Texas Government Code, Section 661.202 (d)].

¹ This is an updated version of this State Auditor's Office Leave Interpretation. It was updated in 2011 to primarily reflect statutory changes. The previous version can be found at http://www.hr.sao.state.tx.us/Statutes/LI00-01_old.html